

OFFICE OF LEGISLATIVE RESEARCH
PUBLIC ACT SUMMARY



PA 11-216—sSB 1110

Banks Committee

Judiciary Committee

Public Safety and Security Committee

**AN ACT CONCERNING CONSUMER CREDIT LICENSES AND THE
CONNECTICUT UNIFORM SECURITIES ACT**

SUMMARY: This act makes numerous changes to the banking law. The act changes and expands licensing requirements for certain loan processors or underwriters, which the act treats as one group. The mechanics of the act's application and licensing requirements for loan processors or underwriters largely track existing requirements for mortgage loan originators. The act also applies to loan processor or underwriter licensees several provisions that currently apply to originators as well as other mortgage licensees, such as the banking commissioner's authority to suspend, revoke, or refuse to renew licenses and the prohibition against residential mortgage fraud and other specified activities.

The act makes several other changes affecting mortgage licensees. It adds to those excluded from licensing requirements. It also allows individuals or entities who are exempt from licensing to register for purposes of sponsoring a mortgage loan originator or loan processor or underwriter, without affecting the exempt status. It expands the reach of, and makes other modifications to, prelicensing education, testing, and continuing education requirements. It also increases the surety bond requirement, including setting a schedule for the required amount based on the value of mortgage loans the licensee or exempt sponsor originates. It makes changes regarding mortgage license abandonment and surrender. It also modifies exclusions from the definition of mortgage loan originator and makes other changes regarding the scope of the originator licensing requirement.

The act expands the requirement that applicants for various banking department licenses provide a history of their criminal convictions and those of certain individuals connected to the applicant. It:

1. allows the banking commissioner to conduct state and national criminal background checks of such applicants and individuals,
2. expands the commissioner's authority to deny such applications on the basis of criminal convictions, and
3. allows the commissioner to deem such applications abandoned if the applicant fails to respond to required information requests.

The act modifies the attorney exemption to debt adjuster or negotiator licensing and makes other changes regarding debt adjusters and negotiators.

The act makes several other changes, such as:

1. expanding the existing prohibition on fraudulent conduct,
2. changing the limit on the permissible number of certain bank transfers,
3. specifying that the existing prohibition on increases of mortgage interest

- rates due to default applies only to residential loans,
4. changing the definition of “nonprime home loan” for purposes of regulating such loans,
 5. adding a definition of “influence residential real estate appraisals” for purposes of the prohibition on such activity, and
 6. eliminating specified requirements for certain investment advisers who are exempt from state registration.

The act also makes minor, technical, and conforming changes.

EFFECTIVE DATE: Various; see below.

LOAN PROCESSORS OR UNDERWRITERS

Except as noted, the following changes apply only to loan processors or underwriters. The section on mortgage licenses (see below) includes some provisions that affect these occupations as well as other types of mortgage licensees.

§ 7 — Definition

The act broadens the definition of loan processor or underwriter. It also specifies that “loan processor or underwriter” is a single term for purposes of the banking law.

Under prior law, a loan processor or underwriter was someone who performed specified clerical or support duties related to loan applications as an employee at the direction of and subject to the supervision and instruction of someone licensed or exempt from licensure as a mortgage loan originator, broker, lender, or correspondent lender (although other provisions of law contemplate loan processors or underwriters who are independent contractors). Under the act, anyone who performs such clerical and support duties is a loan processor or underwriter, regardless of whether they do so under someone licensed or exempted from licensing under mortgage law.

EFFECTIVE DATE: October 1, 2011

§ 10 — Licensing and Sponsorship

Prior law prohibited independent contractor loan processors or underwriters from processing or underwriting loans unless they were licensed as mortgage loan originators. The act instead requires loan processors or underwriters to obtain and maintain a loan processor or underwriter license if they are (1) independent contractors or (2) employed by anyone other than (a) licensed lenders, correspondent lenders, or brokers or (b) a federally insured state, federal, or out-of-state bank or credit union, an operating subsidiary of a federal bank or federally-chartered out-of-state bank, or a wholly-owned subsidiary of a state bank or credit union. The act correspondingly prohibits licensed mortgage lenders, correspondent lenders, or brokers from engaging the services of an unlicensed loan processor or underwriter who is required to be licensed.

The act prescribes registration and sponsorship conditions for loan processors or underwriters that are the same as existing law for mortgage loan originators. It

requires loan processors or underwriters to register with, and maintain a valid unique identifier issued by, the Nationwide Mortgage Licensing System and Registry (i.e., the system). Additionally, a loan processor or underwriter licensee cannot process or underwrite loans when he or she is not sponsored by (1) a licensed lender, correspondent lender, or broker or (2) a person who is exempt from mortgage licensing requirements and registered on the system as an exempt registrant for sponsoring purposes. The processor or underwriter's license is also not effective when the sponsoring lender's, correspondent lender's, or broker's license is suspended.

The act allows loan processors or underwriters, or their sponsors, to file a notification of termination of sponsorship with the system. It specifies that exempt registrant sponsors may file such a notification.

EFFECTIVE DATE: October 1, 2011

§ 13 — Application Requirements

The act specifies that (1) loan processor or underwriter or (2) originator licensees must be individuals rather than "persons," which include entities.

The act outlines application requirements for loan processors or underwriters. The applicant must apply for a specified office or license renewal with the system on a form prescribed by the banking commissioner. The form must contain content as set forth by the commissioner, and the commissioner may change or update the form as necessary to carry out the law's purposes as to mortgage licensing, participation in the system, and notice of discriminatory lending practices.

At a minimum, the applicant must provide the system, in a form prescribed by the system, information (1) concerning the applicant's identity, including personal history and experience and (2) related to any government's administrative, civil, or criminal findings. Applicants must also provide the system with fingerprints for submission to the FBI and any governmental entity authorized to receive such information for a state, national, and international criminal background check. The foregoing application requirements are identical to existing law's requirements for originator applicants.

The act allows licensed mortgage loan originators to also act as loan processors or underwriters.

EFFECTIVE DATE: October 1, 2011

§ 15 — Standards for License Issuance and Renewal

The act requires loan processors or underwriters to be licensed under the same process as loan originators.

Minimum Standards for License Issuance. Under the act, the commissioner cannot issue an initial license for a loan processor or underwriter unless he, at a minimum, finds that the applicant has:

1. never had an equivalent license revoked in any government jurisdiction, except that a subsequent formal vacating of a revocation is not deemed a revocation;
2. regardless of the law on denial of employment based on prior criminal

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convictions, has not been convicted of, or pled guilty or nolo contendere to, a felony in any court (a) during the seven years before the application or (b) any time before the application if the felony involved fraud, dishonesty, breach of trust, or money laundering (for these purposes, convictions that are pardoned do not count as convictions);

3. demonstrated the financial responsibility, character, and general fitness to command community confidence and warrant a determination that the individual will operate honestly, fairly, and efficiently within the law's purposes as to mortgage licensing, participation in the system, and notice of discriminatory lending practices;
4. completed the preclicensing education requirement and passed a written test as required by the act;
5. met the surety bond requirement; and
6. has not made a material misstatement in the application.

If the commissioner denies a license application, he must notify the applicant, and may notify the sponsor or anyone else the commissioner deems appropriate, of the denial and the reasons for it.

Minimum Standards for License Renewal. The minimum standards for renewing are also the same as those for loan originators. At a minimum, the licensee must (1) continue to meet the minimum standards for license issuance outlined above; (2) have satisfied the annual continuing education requirements; and (3) have paid all required license renewal fees.

If these standards are not met, the license expires. The commissioner may adopt procedures to reinstate expired licenses consistent with the system's standards.

EFFECTIVE DATE: October 1, 2011

§ 19 — When Licenses Remain in Effect

By law, mortgage lender, correspondent lender, broker, and originator licenses remain effective and in force until they have been surrendered, revoked, suspended, expire, or are no longer effective, in accordance with the banking law. The act extends these provisions to loan processor or underwriter licenses.

EFFECTIVE DATE: Upon passage

§ 20 — License Expiration and Fee

Under the act, loan processor or underwriter licenses expire under the same conditions as those for lenders, correspondent lenders, brokers, and originators. Unless renewed, a license expires on the close of business on December 31 of the year it was approved, but those licenses approved on or after November 1 expire at the end of December the following year. Applications for license renewal must be filed between November 1 and December 31 in the expiration year.

The act also extends to applicants for a loan processor or underwriter license the \$300 fee that applies to originators, in addition to any system-required fees (by law, lenders, correspondent lenders, and brokers pay higher licensing fees).

EFFECTIVE DATE: October 1, 2011

§ 22 — Commissioner's Authority to Suspend, Revoke, or Refuse to Renew License

The act authorizes the commissioner to suspend, revoke, or refuse to renew loan processor or underwriter licenses under the same conditions as loan originator licenses. The commissioner may take such actions, or other actions in accordance with the law, for any reason which would give him sufficient grounds to deny a license application under the laws on mortgage licensing, participation in the system, and notice of discriminatory lending practices.

He may also take such actions if he finds that the licensee has:

1. committed fraud;
2. misappropriated funds;
3. misrepresented, concealed, suppressed, intentionally omitted, or otherwise intentionally failed to disclose any material particulars of a residential mortgage transaction; or
4. violated any provision of the banking laws or regulations or other laws or regulations that apply to the licensee's business conduct.

EFFECTIVE DATE: October 1, 2011

§ 24 — Unique Identifier on Documents

The act requires any licensed loan processor or underwriter to clearly show his or her unique identifier (a number or other identifier assigned by system-established protocols) on all residential mortgage loan application forms, solicitations, or advertisements, including business cards or websites, and any other documents as the banking commissioner establishes by rule, regulation, or order. By law, the same requirement applies for mortgage loan originators.

EFFECTIVE DATE: October 1, 2011

§ 25 — Prohibited Acts

The law prohibits anyone subject to the mortgage licensing law from taking numerous actions, including conducting any business in any of the mortgage licensee categories without a valid license or assisting or aiding and abetting any person in the conduct of such businesses without a valid license. The act extends these prohibitions to licensed processors or underwriters.

EFFECTIVE DATE: October 1, 2011

§§ 9, 26, 28 — System-Related Requirements

The law requires the commissioner to license and register mortgage lenders, correspondent lenders, brokers, and originators through the system. The act also requires him to license loan processors or underwriters through the system.

The act also extends to loan processors or underwriters various system-related requirements that already apply to other mortgage licensees. For example, under the act, the banking commissioner must require loan processors or underwriters to be licensed and registered through the system and allow the system to process applications for and maintain records on them. Loan processors or underwriters must submit to the system condition reports that contain information required by,

and are in the form required by, the system.
EFFECTIVE DATE: October 1, 2011

§ 48 — Residential Mortgage Fraud

The act expands the reach of the criminal prohibition on residential mortgage fraud (see BACKGROUND) to include fraud committed by loan processors or underwriters. The law already applies the prohibition to (1) mortgage brokers, lenders, correspondent lenders, and loan originators and (2) anyone else who is a mortgagor on more than three mortgage loans or who purchases or sells more than three residential properties in 12 consecutive months.
EFFECTIVE DATE: October 1, 2011

§ 2 — Confidentiality of Banking Department Records

The law prohibits the Banking Department from disclosing certain records or subjecting them to public inspection or discovery. But this prohibition does not apply to records that are included in the system for public access relating to the employment history of, and publicly adjudicated disciplinary and enforcement actions against, mortgage loan originators. The act extends this prohibition to the same types of records for loan processors or underwriters.
EFFECTIVE DATE: October 1, 2011

MORTGAGE LICENSES

§§ 3, 18 — License Surrender

By law, anyone issued a license by the banking commissioner (other than licenses issued under the securities and business investment laws) may surrender the license to the commissioner, in person or by registered or certified mail. The surrender does not affect (1) the licensee's civil or criminal liability or (2) the commissioner's ability to impose administrative penalties for acts committed before the surrender.

The act specifies that mortgage originators, brokers, lenders, correspondent lenders, and loan processors or underwriters seeking to surrender their licenses must file a request to surrender on the system in accordance with law. For purposes of the commissioner's authority regarding proceedings for license suspension, revocation, or refusal to renew, the act treats a request to surrender by such mortgage licensees the same as a surrender by other licensees.

Prior law required mortgage lender, correspondent lender, and broker licensees who intend to permanently leave the business of making residential mortgage loans or acting as a mortgage broker for any cause, including bankruptcy, license revocation, or voluntary dissolution, to file a license surrender request on the system for each office where the licensee intends to stop doing business. The act exempts licensees from filing the surrender request if they intend to stop doing business due to a license revocation.

The act applies similar requirements to mortgage loan originators and, effective October 1, 2011, loan processors or underwriters. It requires such licensees who intend to permanently stop originating loans or processing or

underwriting them, respectively, during a license period for any cause, including bankruptcy, to file a license surrender request on the system. As is the case under the law for lenders, correspondent lenders, and brokers, the act (1) requires the licensees to file the surrender request within 15 days after stopping business, (2) provides that the requirement does not apply to those whose licenses have been suspended, and (3) provides that a surrender is not effective until the commissioner accepts it.

EFFECTIVE DATE: Upon passage

§ 8 — Mortgage Loan Originator Definition

The banking law defines a mortgage loan originator, subject to certain exceptions, as someone who for compensation or gain, or the expectation of compensation or gain, (1) takes a residential mortgage loan application or (2) offers or negotiates residential mortgage loan terms. The act narrows the definition in one respect and broadens it in another.

Prior law excluded from the definition of mortgage loan originator people engaged solely as loan processors or underwriters, except for independent contractors. The act deletes this exception, thus providing that anyone engaged solely as a loan processor or underwriter is not a mortgage loan originator.

Prior law also excluded from the definition someone who only renegotiates terms for existing mortgages and did not otherwise act as an originator, unless the U.S. Department of Housing and Urban Development (HUD) or a court determined the individual needed to be licensed under the Secure and Fair Enforcement for Mortgage Licensing Act of 2008 (S.A.F.E. Act). The act narrows this exclusion to individuals who renegotiate existing mortgage terms on a mortgagee's behalf. (PA 11-110 (§ 3), effective July 21, 2011, adds to this someone whom the federal Bureau of Consumer Financial Protection determines needs to be licensed under the S.A.F.E. Act).

EFFECTIVE DATE: October 1, 2011

§ 10 — Mortgage Loan Originator Licensing

With certain exemptions, existing law requires mortgage loan originators to be licensed. The act specifies that this requirement applies to those originating loans on a sponsor's behalf with respect to any loan primarily for personal, family, or household use that is secured by a mortgage or other consensual security interest on a dwelling, as defined in the federal Consumer Credit Protection Act (CCPA), or residential real estate upon which a dwelling, as defined in that act, is built or intended. Prior law applied the licensing requirement to those in the business of mortgage loan origination with respect to a dwelling as defined in the CCPA. The CCPA defines a dwelling as a residential structure or mobile home containing one to four family housing units or individual units of condominiums or cooperatives (15 U.S.C. § 1602).

Under prior law, a mortgage loan originator license was not effective during any period when the originator was not sponsored by a licensed lender, correspondent lender, or broker. The act also allows individuals or entities who are exempt from mortgage licensing requirements, and who register on the system

as exempt registrants for sponsoring purposes, to serve as sponsors.
EFFECTIVE DATE: October 1, 2011

§ 11 — Exemptions from Lender, Correspondent Lender, and Broker Licensing

By law, various financial institutions are exempt from mortgage licensing requirements. The exemption applies to any bank or out-of-state bank or Connecticut, federal, or out-of-state credit union, as long as the bank or credit union is federally insured, as well as to certain subsidiaries.

The act specifies that this exemption applies to licensing as a mortgage lender, correspondent lender, or broker. It also extends the exemption to (1) debt negotiation licensees, or people exempt from such licensure, who are negotiating or offering to negotiate residential mortgage terms as authorized by law and (2) anyone engaged solely in providing loan processing or underwriting services to licensed lenders, correspondent lenders, brokers, or financial entities exempt from such licensure as mentioned above.

The act also allows such exempt persons, as well as other individuals or entities that are exempt from lender or correspondent lender licensing requirements (see BACKGROUND) to register on the system as an exempt registrant to sponsor a mortgage loan originator or loan processor or underwriter without affecting the person's licensure exemption.

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§§ 12, 18 — Application or Name Change Requirements for Lenders, Correspondent Lenders, and Brokers

In connection with an application for a mortgage lender, correspondent lender, or broker license, the act limits the need to file a bond with the commissioner to only an initial license application for the licensee's main office.

The act also specifies that when such licensees seek to change their name or address most recently filed in the system, they need to provide the commissioner with a bond rider or endorsement to the surety bond on file if the change relates to a main or branch office. The act also allows them to file an addendum to the surety bond. The bond rider, endorsement, or addendum must reflect the new name or address of the main or branch office (see § 21 for more changes to the surety bond requirement).

Existing law requires such applicants to submit information required by the commissioner on the background of the applicant as well as the applicant's principals, employees, and mortgage loan originators. The act adds to this list background information pertaining to the applicant's loan processors or underwriters.

EFFECTIVE DATE: Upon passage

§§ 14, 15 — Automatic License Suspension

The act allows the commissioner to automatically suspend the license of a mortgage lender, correspondent lender, broker, originator, or loan processor or underwriter if the licensee receives a deficiency on the system indicating that the required license renewal payment was returned or not accepted. The

commissioner must notify the licensee of the automatic suspension, pending proceedings for revocation or refusal to renew pursuant to law and an opportunity for a hearing in accordance with law. After such a suspension, the commissioner must also require the licensee to take or refrain from taking actions that, in his opinion, would effectuate the law's purposes.

EFFECTIVE DATE: October 1, 2011

§ 16 — License Abandonment

By law, the commissioner may deem mortgage lender, correspondent lender, broker, and originator license applications abandoned and keep the application fee if the applicant fails to respond to any request for information under the mortgage licensing statutes or regulations. The act extends this provision to applications for loan processor or underwriter licenses. It also extends it to requests for information under the law or regulations regarding participation in the system, notice of discriminatory lending practices, and certain other provisions pertaining to (1) mortgages, (2) prohibited acts by mortgage licensees, and (3) the banking commissioner's investigation and examination authority.

The law requires the commissioner to notify the applicant in writing that the application is deemed abandoned if the information is not submitted within 60 days. The act specifies that the notice must be on the system.

By law, abandonment in this manner does not prevent the applicant from submitting a new application.

EFFECTIVE DATE: Upon passage

§ 17 — Prelicensing Education, Testing, and Continuing Education

By law, mortgage lenders, correspondent lenders, and brokers seeking licensure must have qualified individuals at the main office and branch managers at each branch office who (1) meet certain experience requirements, (2) have completed prelicensing education requirements, and (3) have passed a written test developed by the system. Mortgage loan originator applicants must also complete prelicensing education requirements and pass a written test to be licensed and meet continuing education requirements for license renewal.

The act makes several changes related to these requirements.

Extension of Requirements. The act extends to loan processor or underwriter applicants and licensees the requirements described above that apply for originator applicants and licensees, respectively. It also extends the annual continuing education requirement to qualified individuals and branch managers. By law, this continuing education requirement includes at least eight hours of instruction, including a minimum of (1) three hours on relevant federal law and regulation, (2) two hours on ethics (fraud, consumer protection, and fair lending) and (3) two hours on lending standards for the nontraditional mortgage marketplace.

Course or Test Site. The act specifies that prelicensing and education courses may be provided by the employer of the individual taking the test or the employer's subsidiary or affiliate, if such courses are approved by the system. It allows a system-approved test provider to administer a test at (1) the tested

individual's employer, (2) a subsidiary or affiliate of the employer, or (3) any entity where the tested individual acts as a qualified individual or branch manager.

Retaking the Test. The act increases, from three to four, the number of consecutive times an individual may retake a test, with each test occurring at least 30 days after the previous one, before the individual must wait at least six months to retake the test.

Prior law required a licensed mortgage lender, correspondent lender, broker, or originator to retake the test if he or she failed to maintain a valid license for five years or longer, not counting the time an individual was a registered mortgage loan originator. The act instead requires the following people to retake the test:

1. a mortgage loan originator who (a) was licensed after the prelicensing and testing requirements took effect and (b) was not licensed as a mortgage loan originator within the five years before applying for an originator license, not counting any time he or she was a registered mortgage loan originator;
2. a qualified individual or branch manager, who (a) held that position after the prelicensing education and testing requirements took effect, and (b) did not hold that position within the five years before the filing on the system designating the individual as a qualified individual or branch manager, unless (c) he or she was a licensed mortgage loan originator during those five years, not counting time he or she was a registered mortgage loan originator; and
3. someone licensed as a loan processor or underwriter who applies to be licensed again, if he or she was not licensed as a loan processor or underwriter within the five years before the application, not counting the time he or she processed or underwrote loans but was not required to be licensed by the act.

Course Credit. The act allows qualified individuals, branch managers, and licensed loan processors or underwriters to receive credit for a continuing education course only in the year in which the course is taken and prohibits them from taking the same approved course in the same or successive years to meet the annual continuing education requirements.

It also allows qualified individuals, branch managers, or licensed loan processors or underwriters who are approved instructors of an approved continuing education course to receive credit for their own annual continuing education requirement at the rate of two hours credit per one hour taught. These provisions already apply to mortgage loan originators.

Renewal or Relicensing Requirements. The act requires previously licensed loan processors or underwriters to complete the continuing education requirements for the last year in which they held the license before they may receive or renew a license. This requirement already applies to mortgage loan originators.

The act imposes continuing education requirements on people who were licensed under the mortgage licensing statutes after the prelicensing and testing

requirements took effect, are no longer licensed, and are applying for relicensing. Such people must prove that they completed the continuing education requirements for the year in which they last held the license.

The act requires a qualified individual or branch manager who no longer holds such a position to complete the continuing education requirements for the last year in which he or she held the position before the individual can hold such a position again. It also requires an individual who previously held a position as a qualified individual or branch manager after the effective date of the prelicensing and testing requirements to complete all continuing education requirements for the year in which the individual last held such a position, before the individual may hold such a position again.

EFFECTIVE DATE: Upon passage, except the requirements apply to loan processors or underwriters starting October 1, 2011.

§ 19 — Filing with the System or Commissioner

The law requires mortgage loan originator licensees to promptly file with the system or notify the commissioner in writing if certain events occur. The act also requires such filing or notice for any change in the information most recently submitted in connection with the license, and extends these requirements to loan processor or underwriter licensees.

By law, the filing or notification is required upon:

1. the licensee's filing for bankruptcy;
2. the filing of a criminal indictment against the licensee; or
3. the licensee's receiving notice of the institution of license or registration denial, cease and desist, suspension, or revocation procedures, other formal or informal regulatory actions by a government agency, or actions by any state's attorney general against the licensee and the reasons for such proceedings.

EFFECTIVE DATE: Upon passage, except the requirements apply to loan processors or underwriters starting October 1, 2011.

§ 20 — Originator Licensing Fee Refunds

Prior law provided that originators could receive a refund for fees paid for a license that was not sponsored by a lender, correspondent lender, or broker. Otherwise, mortgage licensing fees are not refundable. The act deletes the exception for unsponsored originators, thus making nonrefundable all licensing fees for originators, as well as lenders, correspondent lenders, brokers, and loan processors or underwriters.

EFFECTIVE DATE: October 1, 2011

§ 21 — Surety Bonds

General Requirements. By law, mortgage lender, correspondent lender, and broker licensees must file surety bonds with the banking commissioner. Mortgage loan originators must also be covered by surety bonds, with the coverage provided through the sponsor's bond. The bonds must be written by a surety authorized to write bonds in the state, and the attorney general must approve the bonds' form.

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The act specifies that each licensed mortgage lender, correspondent lender, and broker must file a single surety bond covering its main office, as well as an addendum to the bond covering any branch office. It also requires such bonds to cover all originators the licensee sponsors. It specifies that the bond runs concurrently with the period of the license for the licensee's main office.

The act allows originators to be covered by a surety bond through exempt registrant sponsors effective October 1, 2011, as well as lender, correspondent lender, and broker sponsors. For all exempt registrants, the act requires the bond to cover all originators they sponsor.

The act requires the principal on a bond to confirm annually that it maintains the required penal sum as established by the act. For exempt registrants, the requirement is effective October 1, 2011. By September 1, 2011 for licensees, and September 1, 2012 for exempt registrant sponsors, and every September first after that, the principal must file information as the commissioner requires. By September 1 of the applicable year, or another date the commissioner requires, the principal must file a bond rider or endorsement to the surety bond on file to reflect any changes necessary to maintain the act's required surety bond coverage.

Penal Sums for Specified Groups. Under prior law, the penal sum of the required bonds had to be maintained in an amount that reflected the amount of loans originated by the licensee or originator, as determined by the commissioner. The act changes the required bond penal sums, in the following minimum amounts.

For applicants for an initial mortgage lender or correspondent lender license, the required amount is \$100,000. For initial mortgage broker applicants, the required amount is \$50,000. For all such applicants, the amount is in connection with its application for its main office.

Effective October 1, 2011, individuals or entities who are exempt from licensure, and who register on the system as an exempt registrant for purposes of sponsoring a mortgage loan originator or loan processor or underwriter, must file bonds in the following penal sums:

1. federally insured banks or credit unions, as well as certain subsidiaries of such entities, that are exempt from mortgage lender, correspondent lender, or broker licensing requirements (see § 11 above): \$100,000, required the first time the registrant sponsors a mortgage loan originator; and
2. various individuals or entities that are exempt from mortgage lender or correspondent lender licensing requirements, such as anyone making five or fewer residential mortgage loans in a year and various entities that make mortgages for specified and limited purposes (see BACKGROUND): \$50,000, required the first time the registrant sponsors a mortgage loan originator.

The required amounts increase depending on the amount of originated loans. For (1) mortgage lender, correspondent lender, and broker licensees and (2) after October 1, 2011, the exempt registrants described above who are sponsoring and bonding at least one originator, the act ties the required bond amount to the aggregate dollar amount of the residential mortgage loans the licensee or exempt registrant originated in the preceding 12-month period ending July 31 of the

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current year, as shown in Tables 1 and 2. The act specifies that for licensees, the aggregate amount includes all loans originated by the licensee at all licensed locations.

Table 1: Required Bond Amounts for Mortgage Lender Licensees, Correspondent Lender Licensees, and After October 1, 2011, Financial Entity Exempt Registrants

<i>Aggregate Amount of Residential Mortgage Loans Originated in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$100,000
\$30 million or more but less than \$100 million	\$200,000
\$100 million or more but less than \$250 million	\$300,000
\$250 million or more	\$500,000

Table 2: Required Bond Amounts for Mortgage Broker Licensees and After October 1, 2011, Specified Other Exempt Registrants

<i>Aggregate Amount of Residential Mortgage Loans Originated in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$50,000
\$30 million or more but less than \$50 million	\$100,000
\$50 million or more	\$150,000

(See § 44, below, for bond requirements applying to licensed debt negotiators, or those exempt from such licensure, who negotiate or offer to negotiate residential mortgage terms and are exempt from mortgage lender, correspondent lender, or broker licensing requirements.)

The act provides that the aggregate amount of all residential mortgage loans originated by a licensee, or, after October 1, 2011, by an exempt registrant, includes the aggregate amount of all closed residential mortgage loans that the licensee or exempt registrant originated, brokered, or made, as applicable.

The act requires principals to file with the commissioner, as he requires, financial information needed to verify the aggregate amount of residential mortgage loans originated. This information must also be reported on the system when and in a form the system requires.

The act allows the commissioner to require a change in the penal sum of the bond if he determines that the aggregate dollar amount of all residential mortgage loans originated warrants such a change.

Bond Cancellation. By law, a surety company can cancel a bond. The act makes a conforming change to reflect that the company must notify the principal on the bond before cancelling, whether the principal is a licensee or exempt registrant. Before cancelling, the surety company also must notify the commissioner, who must then provide written notice of the cancellation date to the principal. The act specifies that this notice counts as notification to each originator licensee that the principal sponsors.

Under existing law, the commissioner must automatically suspend a lender, correspondent lender, or broker's license on the bond cancellation date unless the

licensee, before that date, (1) submits either a letter of bond reinstatement from the surety company or a new bond or (2) the licensee has stopped business and surrendered its license according to law. The act provides that on the bond cancellation date, the commissioner must also inactivate the licenses of the mortgage originators that the licensee or exempt registrant sponsors. This requirement applies to exempt registrants on and after October 1, 2011. The inactivation does not occur if the principal complies with provision (1) above or the licensee sponsor complies with provision (2) above by surrendering all licenses.

The license of a mortgage loan originator who was sponsored by (1) a licensee whose license was automatically suspended or (2) after October 1, 2011, an exempt registrant who failed to provide the required bond, is not inactivated if the sponsorship has ended and a new sponsor had been requested and approved.

Effective October 1, 2011, the act allows the commissioner to provide information to the exempt registrant about actions he takes related to a bond cancellation against an originator licensee for which the exempt registrant has provided sponsorship and a bond.

EFFECTIVE DATE: July 1, 2011

§ 27 — Challenges to System Information

Prior law required the commissioner to establish a process for mortgage lenders, correspondent lenders, brokers, and originators to challenge information the commissioner enters into the system. The act deletes the reference to a commissioner-established process, and instead provides that such mortgage professionals, as well as loan processors or underwriters, may challenge information the commissioner enters into the system.

The act specifies that the challenge to the commissioner must be in writing. The challenge must include the specific challenged information and evidence supporting the challenge. The act limits the challenge to the factual accuracy of information within the system. It requires the commissioner to promptly correct information entered into the system that he determines is factually inaccurate.

The act specifies that these provisions do not allow someone to challenge the merits or factual basis of an administrative action the commissioner takes pursuant to the banking laws.

EFFECTIVE DATE: Upon passage, except the provision is effective for loan processors or underwriters on October 1, 2011.

OTHER LICENSES

§§ 29, 32, 34, 35, 38, 40, 47 — License Abandonment for Failure to Provide Information

The act allows the banking commissioner to deem an application for specified licenses abandoned if the applicant fails to respond to any request for information required under the applicable statutes or regulations. The licenses are for sales finance companies, small loan lenders, check cashing businesses, money transmission businesses or payment instrument issuers, debt adjusters, debt

negotiators, and consumer collection agencies.

The act requires the commissioner to notify the applicant in writing that the application is deemed abandoned if the information is not submitted within 60 days. It allows the Banking Department to keep the application fee for abandoned applications but provides that abandonment does not prevent the applicant from submitting a new application.

EFFECTIVE DATE: October 1, 2011

§§ 29, 32, 34, 35, 38, 40, 47 — Criminal History Information and Background Checks

The act requires applicants for sales finance companies, small loan lenders, check cashing businesses, money transmission businesses or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agency licenses to include a complete history of criminal convictions for themselves and specified individuals connected with them. Prior law required a history of criminal convictions for only the 10-year period preceding the application.

The act also authorizes the banking commissioner to conduct state and national criminal background checks on applicants for these licenses and certain other individuals connected to the applicants. For example, for check cashing businesses, he may require background checks of the applicant as well as each member, officer, director, authorized agent, and shareholder owning at least 10% of the applicant's outstanding stock. The criminal background check must comply with current requirements for background checks.

By law, state background checks are conducted by the State Police Bureau of Identification. National background checks are conducted by the FBI.

EFFECTIVE DATE: October 1, 2011

§§ 30, 31, 34, 36, 38, 40, 47 — Banking Commissioner's Authority to Deny Application Based on Criminal Convictions

By law, the banking commissioner may deny license applications for sales finance companies, small loan lenders, check cashing businesses, money transmission businesses or payment instrument issuers, debt adjusters, debt negotiators, and consumer collection agencies if he finds that the applicant or specified individuals connected with the applicant have been convicted of (1) a misdemeanor involving any aspect of the business for which the applicant seeks licensure or (2) a felony. The act extends this to any such conviction, not just those falling within the 10 years preceding the application. By law, any such license denial, when applicable, must comply with existing law on license denials due to criminal convictions.

EFFECTIVE DATE: October 1, 2011

§ 36 — Money Transmission Businesses or Connecticut Payment Instrument Issuer Applicant Misdemeanor Convictions

The act expands the type of misdemeanor that could lead to denial of a license for money transmission businesses or payment instrument issuer applicants. Prior law specified that the misdemeanor must involve an aspect of the money

transmission business or the business of issuing Connecticut payment instruments. The act allows the commissioner to deny a license for a misdemeanor involving the business of issuing any payment instrument, not just a Connecticut instrument. EFFECTIVE DATE: October 1, 2011

§ 47 — Consumer Collection Agency Applicant Criminal History Information

The act adds to the list of people required to submit criminal history information in connection with an application for a consumer collection agency license. Depending on the form of the proposed business, the act requires partners, members, officers, directors, and principal employees, as well as applicants, to submit a history of their criminal convictions. Prior law required only applicants to submit this information. The act also requires applicants and such other people to submit sufficient information about their criminal history in a form acceptable to the banking commissioner.

The act also requires the commissioner to inquire into these individuals' qualifications, and allows him to deny an application due to any such individual's criminal conviction. Prior law imposed these requirements only for applicants. (But he may deny a renewal application only for an applicant's conviction, and not those of such other people.)

The act also allows the commissioner to require all such individuals to submit to criminal background checks, as outlined above.

EFFECTIVE DATE: October 1, 2011

§ 5 — Debt Negotiation – Examination Costs

The act adds debt negotiators to the list of licensees who must pay to the banking commissioner the actual cost of any examination of the licensee, as determined by the commissioner. As with other licensees specified by law, the act allows the commissioner to suspend a debt negotiation license for failure to pay for an examination within 60 days of receiving the commissioner's demand for payment.

EFFECTIVE DATE: Upon passage

§ 15, 40, 41 — Debt Negotiation – Scope and Mortgage Origination

The law generally requires someone who is engaging or offering to engage in debt negotiation in the state to be licensed.

Under prior law, someone whose place of business was located outside Connecticut was considered to be engaging in debt negotiation in Connecticut if (1) the debtor was a Connecticut resident who negotiated or agreed to the terms of the services contract in person, by mail, by telephone, or via the Internet while physically present in this state or (2) the contract concerned a debt that was secured by property located in Connecticut. The act deletes the requirement that the debtor be physically present in Connecticut when negotiating or agreeing to terms. It also deletes the requirement of a contract under both options, referring to services instead.

The act prohibits anyone who is not a licensed mortgage loan originator, or exempt from such licensure, from engaging or offering to engage in debt

negotiation of a residential mortgage loan on a mortgagor's behalf, for or with the expectation of compensation or gain. The act also prohibits debt negotiation licensees, or those exempt from such licensure, from allowing anyone who is not a licensed originator or exempt from such licensure to engage or offer to engage in such activity for or with the expectation of compensation or gain.

The act provides that anyone who engages in debt negotiation as specified above and who is required to be licensed as a mortgage loan originator must comply with the law's requirements for originator licensees. Such individuals must also meet the surety bond requirements that apply to originators and debt negotiators.

EFFECTIVE DATE: October 1, 2011

§ 37, 43 — Debt Adjustment and Negotiation – Modification of Attorney Exemption

Prior law exempted attorneys admitted to practice in Connecticut from debt adjustment or negotiation licensing when engaged in such activities. The act narrows this exemption by specifying that it only applies if the attorney engages in debt adjustment or negotiation as an ancillary matter to the attorney's representation of a client.

EFFECTIVE DATE: October 1, 2011

§ 42 — Debt Negotiation – Commissioner Enforcement

By law, the banking commissioner may suspend, revoke, or refuse to renew a debt negotiation license or take any other action in accordance with the applicable banking statutes in specified circumstances. These include any reason sufficient for the commissioner to deny a license application under the debt negotiation laws. The act allows the commissioner to suspend, revoke, or refuse to renew a license under the same conditions he may deny a license under the provisions above concerning mortgage loan originators (or those exempt from such licensure) who engage or offer to engage in debt negotiation of a residential mortgage loan on a mortgagor's behalf, for or with the expectation of compensation or gain.

Additionally, the commissioner may take action against the person or licensee under his general powers under the banking statutes whenever (among other reasons) it appears that a person has violated, is violating, or is about to violate the debt negotiation laws. The act adds to this list the provisions on originators in the previous paragraph. It also specifies that for purposes of those provisions as well as other provisions of the debt negotiation laws, each engagement and offer to engage in debt negotiation constitutes a separate violation.

Prior law allowed the commissioner, upon complaint, to review fees or charges assessed by a person offering debt negotiation services and order a reduction or repayment of the amount that the commissioner deems excessive, taking into consideration the fees that others performing similar debt negotiation services charge for them and the benefit of the services to the consumer. He can do this under his general investigative power. The act allows the commissioner to review any fees or charges assessed by a person engaging or offering to engage in

debt negotiation services (rather than just offering such services).
EFFECTIVE DATE: Upon passage

§ 44 — *Debt Negotiation – Surety Bond*

Prior law required applicants for a debt negotiation license or renewal to file with the commissioner a surety bond in the aggregate amount of \$40,000 for all licensed locations in order for a license or renewal to be granted. The act increases the amount of the required bond, as specified below. It requires the surety bond in connection with the license application or licensing of the main office, and requires applicants and licensees to identify branch offices as bonded locations by addendum to the required main office surety bond.

Under the act, initial applicants for a debt negotiation license must file a bond in a penal sum of \$50,000.

Debt negotiation licensees who are (1) sponsoring and bonding at least one mortgage loan originator; (2) exempt from licensing as a mortgage lender, correspondent lender, or broker; and (3) registered as exempt registrants for sponsoring purposes, must file a bond in the amounts shown in Table 3. The amounts are tied to the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated by all sponsored mortgage loan originators during the preceding 12-month period ending July 31 of the current year. The act specifies that the aggregate amount of all residential mortgage loans negotiated or offered to be negotiated is the aggregate underlying dollar amount of all residential mortgage loans for which a sponsored mortgage loan originator provides debt negotiation services.

Table 3: Required Bond Amounts for Debt Negotiation Exempt Registrant Sponsors

<i>Aggregate Amount of Negotiated Residential Mortgage Loans in Preceding Year</i>	<i>Penal Sum of Bond</i>
Less than \$30 million	\$50,000
\$30 million or more but less than \$50 million	\$100,000
\$50 million or more	\$150,000

Under the act, the bond principal must annually confirm that it maintains the required penal sum. Annually, beginning September 1, 2012, a licensee must file with the commissioner such information as the commissioner requires to confirm that the penal sum of the bond remains consistent with the amount the act requires. By September 1 of the applicable year, or another date the commissioner requires, the principal must file any bond rider or endorsement to the surety bond on file to reflect any necessary changes to maintain the required bond coverage.

Existing law specifies that any filed surety bond must be conditioned upon the debt negotiation licensee faithfully performing any and all written agreements with debtors and conducting such business according to the debt negotiation laws. The act extends these requirements to originator licensees that the debt negotiation licensee sponsors. It also extends these requirements to the faithful performance of all written agreements and commitments with or for the benefit of

debtors and mortgagors, as applicable. This includes truly and faithfully accounting for funds the bond principal or sponsored originator receives from a debtor or mortgagor. It also extends these requirements to conducting business consistent with the law regarding mortgage licensing, participation in the system, and notice of discriminatory lending practices.

The act specifies that mortgagors, as well as other debtors, can proceed on any such surety bond against the principal or surety, or both, to recover damages for the failure to meet these requirements. It also allows debtors or mortgagors to take such actions to recover damages for the wrongful conversion of funds that a debtor or mortgagor paid to a debt negotiation or originator licensee.

By law, the commissioner can proceed on any such surety bond against the principal or surety, or both, to collect any civil penalty imposed on the licensee under the banking statutes. The act also allows him to do this to collect any unpaid examination costs of a licensee as determined by the banking statutes.

The act requires the principal to notify the commissioner of the commencement of an action on the bond. When an action is begun, the commissioner may require the principal to file a new bond. The principal must file a new bond immediately on recovery on any action on a bond. The act allows any mortgagor or prospective mortgagor damaged by a debt negotiation or originator licensee's failure to satisfy a judgment against the licensee arising from the negotiation of or offer to negotiate a nonprime home loan to proceed on the bond against the principal or surety, or both, to recover the judgment amount.

The law allows a surety to cancel the bond at any time by notifying the licensee in writing stating the effective date of the cancellation. The notice must be sent at least 30 days before the cancellation date. The surety must also give 30 days' notice to the banking commissioner. The law requires the commissioner, after the surety notifies him of the effective date of a bond cancellation, to give written notice to the licensee of the cancellation date. The act specifies that these notifications must be given to the debt negotiation licensee.

Prior law required the commissioner to automatically suspend someone's debt negotiation license on the bond cancellation date, unless before then the licensee (1) submitted a new bond or a letter of bond reinstatement from the surety or (2) surrendered the license. The act requires the commissioner to suspend the licenses of the debt negotiation licensee, and inactivate the sponsored originator's license, unless the debt negotiation licensee takes actions (1) or (2) above (including surrendering all licenses), or for sponsored originators, the sponsorship has ended and a new sponsor has been requested and approved.

The act requires financial information needed to verify the aggregate amount of residential mortgage loans negotiated or offered to be negotiated to be (1) filed with the commissioner as he requires and (2) reported on the system when and in the form the system requires. The commissioner may require a change in the penal sum of the bond if he determines that the aggregate dollar amount of all residential mortgage loans negotiated or offered to be negotiated warrants such a change.

The act also allows the commissioner to adopt regulations with respect to the law's requirements for debt negotiation surety bonds.

EFFECTIVE DATE: October 1, 2011

§ 49 — INVESTMENT ADVISERS

State law requires investment advisers to register with the banking commissioner, unless they meet specified criteria. One exemption is for investment advisers who are excepted from the definition of investment adviser under federal law. The act exempts these advisers from requirements that they (1) file with the commissioner a notice of exemption from state registration along with a consent to service of process and (2) pay a \$250 fee. The act also eliminates the commissioner's authority to require full state registration if such advisers fail to pay this fee.

State law defines an investment adviser as anyone who, for compensation, (1) engages in the business of advising others, either directly or through publications or writings, on the value of securities or the advisability of investing in, buying, or selling securities or (2) as part of a regular business, issues or promulgates analyses or reports about securities. This definition tracks that in federal law. Both federal and state law also specify several exclusions from the definition (e.g., banks that meet certain criteria; publishers of financial newspapers or magazines; and lawyers, accountants, engineers, or teachers whose performance of such services is solely incidental to their profession).

EFFECTIVE DATE: Upon passage

GENERAL REQUIREMENTS

§ 1 — *Scope of Banking Laws*

The act specifies that Connecticut's banking laws apply to loan processors or underwriters as well as people offering or engaging in debt negotiation. The banking law already applies to several categories of businesses and occupations (including several categories of mortgage professionals) as well as to other people who subject themselves to its provisions or who, by violating any of its provisions, become subject to its penalties.

EFFECTIVE DATE: October 1, 2011

§ 4 — *Fraudulent Conduct*

Prior law prohibited individuals licensed or registered with the banking commissioner, in connection with activities for which they are licensed or registered, from (1) using methods to defraud, (2) making a false statement or omitting a material fact, or (3) engaging in any fraudulent activity. The act extends these prohibitions to any individuals, companies, or other legal entities in connection with any activity subject to the commissioner's jurisdiction.

By law, violators face fines of \$25 to \$1,000 per offense. If the violation is willful and deliberate, the penalty for each offense is up to a year's imprisonment, up to a \$1,000 fine, or both (CGS § 36a-57).

EFFECTIVE DATE: October 1, 2011

FINANCIAL TRANSACTIONS

§ 6 — Limitation on Bank Transfers

Under prior law, a Connecticut bank could permit transfers by negotiable withdrawal order from savings accounts in which a for-profit organization held a beneficial interest, if the deposit contract allowed the depositor to make no more than three transfers by negotiable withdrawal order or check during any month or statement cycle of at least four weeks. The act applies the limitation to any types of transfers, including the following that prior law exempted:

1. preauthorized or automatic transfers made by other means;
2. telephone transfers;
3. transfers to the bank where the savings account is held to repay loans and associated expenses and to cover overdrafts; and
4. transfers to another account the depositor has at the bank and withdrawals when the transfers or withdrawals are made by mail, messenger, automated teller machine, or in person.

The act also changes the limit on the number of permitted transfers from three to the number permitted by the applicable Federal Reserve regulation. The Federal Reserve allows up to six transfers or withdrawals per calendar month or four-week statement cycle (12 C.F.R § 204.2(d)(2)).

The act provides that the transfer limitation may be in the bank's practice as well as the terms of the deposit contract.

EFFECTIVE DATE: Upon passage

§ 23 — Increases of Mortgage Interest Rate Due to Default

For mortgage applications received on or after October 1, 2009, the law generally prohibits mortgage lenders and correspondent lenders from including in a mortgage a provision that increases the interest rate as a result of default. The act specifies that this prohibition applies only to residential mortgage loans.

By law, this prohibition does not apply if (1) the default is a failure to comply with a provision to maintain an automatic electronic payment feature, (2) the provision was provided in return for an interest rate reduction, and (3) the increase is no greater than the reduction.

EFFECTIVE DATE: Upon passage

§ 45 — Nonprime Home Loans

The law sets criteria for what constitutes a nonprime home loan, imposes various requirements on making these loans, and restricts allowable provisions in such loans. In practice, a nonprime home loan is one generally made to a relatively risky borrower and thus has a higher interest rate and stricter repayment terms. The law provides a method for identifying these loans.

Among various other requirements, the law specifies that a nonprime home loan is one in which the difference, at the time of consummation, between the loan's annual percentage rate (APR) and the conventional mortgage rate is at least 1.75% for a first mortgage or 3.75% for a second mortgage. The conventional mortgage rate is the contract interest rate on commitments for fixed-rate

mortgages published by the Federal Reserve during the week before the week in which the loan's interest rate is set. The act provides that the conventional mortgage rate is the most recent contract rate as determined above. It also specifies that the first day of each such week is the effective date of the applicable prime offer rate, as of the date the interest rate is set.

The law also provides that a nonprime home loan is one in which the difference, at the time of consummation, between the APR and the average prime offer rate for a comparable transaction, as of the date the interest rate is set, is greater than 1.5% if the loan is a first mortgage loan or 3.5% if the loan is a secondary mortgage loan.

The act specifies that for these purposes, the date the loan's interest rate is set is the last date on which the rate is set, provided the rate is adjusted on or before consummation.

The act reinstates the banking commissioner's authority to increase these interest rate parameters after considering relevant factors, which expired on August 31, 2010.

EFFECTIVE DATE: Upon passage

§ 46 — Influencing Residential Real Estate Appraisals

The law prohibits anyone from influencing residential real estate appraisals and provides examples of prohibited actions related to influencing such appraisals. The act defines "influence residential real estate appraisals" as directly or indirectly coercing, influencing, or otherwise encouraging an appraiser to misstate or misrepresent the value of residential property.

EFFECTIVE DATE: Upon passage

BACKGROUND

Exemption from Mortgage Lender or Correspondent Lender Licensing

In addition to those listed above who are exempt from mortgage licensing requirements, the following are exempt from licensure as a mortgage lender or correspondent lender:

1. people or entities making five or fewer residential mortgage loans within a 12-month period;
2. bona fide nonprofit corporations making residential mortgage loans to promote home ownership for economically disadvantaged people;
3. federal, state, municipal, or quasi-governmental agencies making residential mortgage loans under the authority of federal or any state's law;
4. people or entities licensed as small loan lenders when making residential mortgage loans authorized by law;
5. people or entities owning real property who take back from the buyer of such property a secondary mortgage loan in lieu of any portion of the purchase price;
6. a corporation or its affiliate that makes residential mortgage loans exclusively for its employees' or agents' benefit;
7. a licensed insurance company or health care center, or its affiliate or

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- subsidiary, that makes residential mortgage loans to promote home ownership in urban areas;
8. people or entities acting as fiduciaries for any employee pension benefit plan qualified under the Internal Revenue Code, who make residential mortgage loans solely to plan participants from plan assets; and
 9. people making secondary mortgage loans to individuals related to them by blood or marriage (CGS § 36a-487(b)).

Residential Mortgage Fraud

Residential mortgage fraud is either a class D felony (for a single act) or a class C felony (multiple acts) (see Table on Penalties).

By law, a person commits residential mortgage fraud when, for financial gain and with the intent to defraud, the person:

1. knowingly makes a material written misstatement, misrepresentation, or omission during the mortgage lending process with the intention that a mortgage lender, correspondent lender, broker, borrower, or anyone else involved in the mortgage lending process will rely on it;
2. knowingly uses, facilitates the use, or attempts to use or facilitate the use of a written misstatement, misrepresentation, or omission during the mortgage lending process with the intention that a mortgage lender, correspondent lender, borrower, or anyone else involved in the mortgage lending process relies on it;
3. receives or attempts to receive proceeds or other funds in connection with a residential mortgage closing that the person knew or should have known resulted from an act or acts constituting residential mortgage fraud; or
4. conspires with or solicits another to engage in an act or acts constituting residential mortgage fraud (CGS § 53-379a).

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